

SUBSTITUTE FOR  
HOUSE BILL NO. 4475

A bill to amend 1976 PA 220, entitled "Persons with disabilities civil rights act," by amending sections 103 and 301 (MCL 37.1103 and 37.1301), section 103 as amended by 1998 PA 20 and section 301 as amended by 1980 PA 478.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 103. As used in this act:

2       (a) "Alcoholic liquor" means that term as defined in section  
3 ~~2~~ 105 of the Michigan liquor control ~~act, 1933 (Ex Sess) PA 8,~~  
4 ~~MCL 436.2~~ CODE OF 1998, 1998 PA 58, MCL 436.1105.

5       (b) "Commission" means the civil rights commission estab-  
6 lished by section 29 of article V of the state constitution of  
7 1963.

**HB4475, As Passed House, December 2, 1999**

House Bill No. 4475

2

1 (c) "Controlled substance" means that term as defined in  
2 section 7104 of the public health code, 1978 PA 368, MCL  
3 333.7104.

4 (d) Except as provided under subdivision (f), "disability"  
5 means 1 or more of the following:

6 (i) A determinable physical or mental characteristic of an  
7 individual, which may result from disease, injury, congenital  
8 condition of birth, or functional disorder, if the  
9 characteristic:

10 (A) For purposes of article 2, substantially limits 1 or  
11 more of the major life activities of that individual and is unre-  
12 lated to the individual's ability to perform the duties of a par-  
13 ticular job or position or substantially limits 1 or more of the  
14 major life activities of that individual and is unrelated to the  
15 individual's qualifications for employment or promotion.

16 (B) For purposes of article 3, is unrelated to the  
17 individual's ability to utilize and benefit from a place of  
18 public accommodation or public service.

19 (C) For purposes of article 4, is unrelated to the  
20 individual's ability to utilize and benefit from educational  
21 opportunities, programs, and facilities at an educational  
22 institution.

23 (D) For purposes of article 5, substantially limits 1 or  
24 more of that individual's major life activities and is unrelated  
25 to the individual's ability to acquire, rent, or maintain  
26 property.

**HB4475, As Passed House, December 2, 1999**

Sub. H.B. 4475 (H-2) as amended December 2, 1999 3

1 (ii) A history of a determinable physical or mental  
2 characteristic described in subparagraph (i).

3 (iii) Being regarded as having a determinable physical or  
4 mental characteristic described in subparagraph (i).

5 (e) "Drug" means that term as defined in section 7105 of the  
6 public health code, 1978 PA 368, MCL 333.7105.

7 (f) For purposes of article 2, disability does not include  
8 either of the following:

9 (i) A determinable physical or mental characteristic caused  
10 by the current illegal use of a controlled substance by that  
11 individual.

12 (ii) A determinable physical or mental characteristic caused  
13 by the use of an alcoholic liquor by that individual, if that  
14 physical or mental characteristic prevents that individual from  
15 performing the duties of his or her job.

16 (g) "Person" includes an individual, agent, association,  
17 corporation, joint apprenticeship committee, joint-stock company,  
18 labor union, legal representative, mutual company, partnership,  
19 receiver, trust, trustee in bankruptcy, unincorporated organiza-  
20 tion, this state, or any other legal, commercial, or governmental  
21 entity or agency, BUT DOES NOT INCLUDE AN INDIVIDUAL SERVING A  
22 SENTENCE OF IMPRISONMENT IN A STATE OR COUNTY CORRECTIONAL FACIL-  
23 ITY IN THIS STATE OR IN ANOTHER STATE, OR IN A FEDERAL CORREC-  
24 TIONAL FACILITY [, UNLESS THE SENTENCE OF SUCH AN INDIVIDUAL IS  
LATER OVERTURNED OR UNLESS BOTH OF THE FOLLOWING CONDITIONS ARE  
ESTABLISHED:

(i) A CLAIM UNDER THIS ACT ACCRUED PRIOR TO THE SENTENCING.

(ii) A CLAIM UNDER THIS ACT IS UNRELATED TO A PERSON'S STATUS  
AS A PRISONER OR INMATE].

25 (h) "Person with a disability" or "person with disabilities"  
26 means an individual who has 1 or more disabilities.

**HB4475, As Passed House, December 2, 1999**

House Bill No. 4475

4

1 (i) "Political subdivision" means a county, city, village,  
2 township, school district, or special district or authority of  
3 this state.

4 (j) "State average weekly wage" means the state average  
5 weekly wage as determined by the Michigan employment security  
6 commission under section 27 of the Michigan employment security  
7 act, 1936 (Ex Sess) PA 1, MCL 421.27.

8 (k) "Temporary employee" means an employee hired for a posi-  
9 tion that will not exceed 90 days in duration.

10 (l) "Unrelated to the individual's ability" means, with or  
11 without accommodation, an individual's disability does not pre-  
12 vent the individual from doing 1 or more of the following:

13 (i) For purposes of article 2, performing the duties of a  
14 particular job or position.

15 (ii) For purposes of article 3, utilizing and benefiting  
16 from a place of public accommodation or public service.

17 (iii) For purposes of article 4, utilizing and benefiting  
18 from educational opportunities, programs, and facilities at an  
19 educational institution.

20 (iv) For purposes of article 5, acquiring, renting, or main-  
21 taining property.

22 Sec. 301. As used in this article:

23 (a) "Place of public accommodation" means a business, educa-  
24 tional institution, refreshment, entertainment, recreation,  
25 health, or transportation facility of any kind, whether licensed  
26 or not, whose goods, services, facilities, privileges,

**HB4475, As Passed House, December 2, 1999**

Sub. H.B. 4475 (H-2) as amended December 2, 1999

5

1 advantages, or accommodations are extended, offered, sold, or  
2 otherwise made available to the public.

3 (b) "Public service" means a public facility, department,  
4 agency, board, or commission —, owned, operated, or managed by  
5 or on behalf of this state or a subdivision of this state, a  
6 county, city, village, township, or independent or regional dis-  
7 trict in this state —, or a tax exempt private agency estab-  
8 lished to provide service to the public, EXCEPT THAT PUBLIC SERV-  
9 ICE DOES NOT INCLUDE A STATE OR COUNTY CORRECTIONAL FACILITY WITH  
10 RESPECT TO ACTIONS OR DECISIONS REGARDING AN INDIVIDUAL SERVING A  
11 SENTENCE OF IMPRISONMENT.

12 Enacting section 1. This amendatory act is intended to  
13 clarify the construction of the persons with disabilities civil  
14 rights act, 1976 PA 220, MCL 37.1101 to 37.1607, and to express  
15 the original intent of the legislature that an individual serving  
16 a sentence of imprisonment in a state or county correctional  
17 facility is not within the purview of this act.

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